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*Burling*



## Is the Government of the State of New York a Republic or a Despotism?

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### *To the Members of the Constitutional Convention :*

This is a republican government—a democracy. So says the Declaration of Independence and the Constitution of the United States, and so say all the State Constitutions. A republican government is a government of the people. All power is in the people. The will of the people expressed in the law is the supreme power. Each member of the community is the equal of each and every other member of the community. The right of each member of the community is the right of each and every other member of the community. *The liability of each member of the community is the liability of each and every other member of the community, not a jot or tittle more or less.*

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I cite the following from the 1st vol., Kent :

“WE, THE PEOPLE OF THE UNITED STATES, to secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”

“This Constitution and the laws made in pursuance thereof, shall be the supreme law of the land.”

Permit the incongruity of pardoning power, &c., to exist, and you have a despotism, and the declarations of liberty, equality, &c., are mere shams.

The consequence of the conviction of A for manslaughter in the first degree, in this state, is that the law demands his confinement for seven years, and gives to the judge before whom he is tried the right to further imprison him for the balance of his life. Here the judge has an interest which he can quit-claim. In case the conviction be in the fourth degree, in addition to an interest to quit-claim, the judge can impose or not at his discretion a royalty to the state of \$1000; and for the exercise of his discretion he is accountable to no one; *as complete master of the position as an owner in fee of a piece of real estate*. And this principle of discretionary terms of imprisonment and fines, or rather royalties, runs through the entire criminal code, each magistrate, in greater or less degree, having this power; and at the head of all, the governor, who can unconditionally release whom he will, and consequently

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“The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but on probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.”

“The absolute rights of individuals may be resolved into the right of personal security, the right of personal liberty, and the right to acquire and enjoy property. These rights have been justly considered and frequently declared by the people of this country to be natural, inherent, and inalienable.”

detain whom he will; and all the prisons of the State are at his command; *he stands with power of freedom or slavery, as absolute as a slave proprietor over his barracoon on the African coast.*

If your wife, sister, or mother be raped, the State gets ten years, the judge the balance of the convict's life to quit-claim; and if sentenced, the governor may immediately pardon.

If your sister or daughter be seduced, the State gets one day, the judge four years and three hundred and sixty-four days to quit-claim, and if imprisoned, the governor may immediately pardon.

If your sister or daughter be led astray for prostitution, the State insists on one day, and the judge can quit-claim for one year and three hundred and sixty-four days; and if imprisoned the governor can pardon.

If your sister or daughter under sixteen years be taken for prostitution, the State insists on one day, the judge gets an estate of two years and three hundred and sixty-four days to quit-claim, and the right to quit-claim the estate of the State to \$1000 royalty.

“Our ancestors insisted that they brought with them into this country the privileges of English freemen, and they defined and declared those privileges to be—the rights of trial by jury and the necessity of due proof preceding conviction, were claimed as undeniable rights; and it was further expressly ordained *that no person should suffer without EXPRESS law, either in life, limb, liberty, good name or estate*; nor without being first brought to answer by due course and process of law.”

“It was declared by them that the imprisonment of subjects without due commitment, for legal cause, &c., were illegal and arbitrary acts.”

*So if your sister or daughter be seduced, the judge can punish the seducer or let him go.*

These powers are all royal prerogatives, and were instituted in governments where the head was sole owner of the subject, his life, his limb, his honor, his estate, <sup>Note 1.</sup> and these prerogatives were for the increasing of the royal revenue. Crime was a source of profit to the king; and all his officers, his judges, &c., were but his tools to foster and increase his revenue. As we see, Blackstone laments that the fines, &c., were swallowed by the direct receivers, and the king profited nothing. <sup>Note 2.</sup> We know, the fines, forfeited recognizances, &c., are swallowed by the direct recipients, and the State profits nothing. These powers can have no legitimate existence in our government. They are in direct contradiction to our form of government, and can properly exist only in a despotism. The king is the head of the government and all power comes from him. His will is the supreme law; from his decision there is no appeal; he can do no wrong; all suits, processes, &c. run in his name.

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“It was regarded and claimed in all the colonies as a branch of their sacred and indefeasible rights, that the people were entitled to be secure in their persons, property and privileges, and that they could not lawfully be disturbed or affected in the enjoyment of either, without due process of law and the judgment of their peers.”

“In the declaration of the first Continental Congress of 1774, it was declared that the inhabitants of the English Colonies in North America, by the immutable laws of nature, the principles of the English Constitution, and their several charters or compacts, were entitled to life,

In a republican government all power is in the people. Their expressed will, the law, is the supreme power, and all officers of government, from the President down, are but the servants of the people to execute their will, the law.<sup>Note 3.</sup> All suits, processes, &c., run in the name of the people, and certainly if these prerogatives are tolerated, then the servant of the people is the master of the people, and the law is not the supreme power, but is subject to the will of the servant. In a republic, each is the equal of the other, and all are subject to the law. By the admission of these prerogatives the people are the serfs of the rulers, and their persons and property are at the discretion of the rulers. What liberty, what equality is there if the person and property of one is at the discretion of another?

*These formulæ, which we call laws, want the life, the essence of law—CERTAINTY, POWER.*

The powers of office can be used for emoluments, and the law thus gives to one member of the community the power to use the person of another member of the community for emolument. A slave is a person bound

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liberty and protection, and that they had never ceded to any sovereign power whatever a right to dispose of either without their consent; and that their ancestors who first settled the colonies, were, at the time of their emigration from the mother country, entitled to all the rights, liberties and immunities of free and natural born subjects; and by such emigration they by no means forfeited, surrendered or lost any of those rights."

*"The government in all its parts is the creature of the people, and every department of it is filled by their agents chosen and appointed according to their will, &c."*

"When the spirit of liberty has fled, and truth and

for life to service—a coolie, one bound for a period less than life. Here, in this State, we see it is possible to have both the slave trade and the coolie trade.

In barbarous nations, the captives are the property of the captors, for use or ransom.

Influence (*i. e. the power that payment of money or service or the ability to pay money or service begets*) got the magistrate his office, and on his influence he depends for its retention. To the lawyer, physician, mechanic, or trader, his clients, his patients, his customers are his capital, and his efforts are to increase it. To the magistrate, his office is his business—his means of living, and his friends (*i. e. the voters he can directly or indirectly influence*), are his capital. The possession of office works no metamorphosis: the same natural instinct that ruled the lawyer, physician, mechanic or trader, rules him as magistrate. To keep or increase his influence, the magistrate must in greater or less degree use the powers of his office. The magistrate is a man; he must support and provide for himself and family; his position for his protection necessarily calls for the use of his powers; a

justice are disregarded, private rights can easily be sacrificed under the forms of law. It requires more than ordinary hardiness and audacity of character to trample down principles which our ancestors cultivated with reverence; which we imbibed in our early education; which recommend themselves to the judgment of the world by their truth and simplicity, and which are constantly placed before the eyes of the people, accompanied with the imposing force and solemnity of a constitutional sanction. Bills of right are parts of the muniments of freemen, showing their title to protection, and they become of increased value when placed under the



judicious magistrate will commit no act that will attract to his discredit the public attention, no act of very great injustice to the individual, *but we cannot reasonably expect justice from a dependent magistrate at the expense of his interest.*

WE WEIGH WITH SCALES, WHOSE BALANCE WE DESTROY.

LET THE MAGISTRATE BE INDEPENDENT, ABOLISH THESE KINGLY PREROGATIVES, AND THERE WILL BE REASON TO EXPECT JUSTICE. These are the thoughts of every observant, reflective person—why not speak them?—print them? They are facts, why not recognize them?

If the magistrate be a weak, a corrupt man, what words can describe his measure of oppression? No accused stands alone—with him is a family, and while he is captive, the effort at ransom never ceases. As the person and boxes of a traveller are at the discretion of the custom-house official for search, so now to the official is the family. Affections, interests, hopes, must all give way; secrets be laid bare, questions answered—are the means of ransom within the grasp of the family, or must new crime be committed? Is the person of a member

protection of an independent judiciary instituted as the appropriate guardian of private rights."

*Not 1.* I quote from Blackstone—

"It is impossible to understand the constitution or laws of this country without an acquaintance with the feudal law, the law of nations in Europe. By this law, 'the king is the universal lord and original proprietor of all lands in his kingdom, and no man doth or can possess any part of it but what has been mediately or immediately devised as a gift from him to be held for feudal services.' All subjects were vassals, and each took to the king openly and humbly, kneeling, being ungirt, uncovered, and holding up his hands both together between those of his lord who sat before him, the oath and profession THAT HE DID BECOME HIS MAN, FROM THAT DAY FORTH, OF LIFE AND LIMB AND EARTHLY HONOR."

"By the word prerogative we usually understand that special preëminence which the king has over and above all other persons, and out of the ordinary course of the common law in right of his regal dignity. *It can only be applied to those rights and capacities which the king enjoys alone in contradistinction to others, and not to those which he enjoys in common with any of his subjects: for if once any one prerogative of the crown could be held in common with the subject,*

of the family coveted, or is it money? Does some observer of the prostration of the family work the release for gratification or gain, or is it some hitherto baulked one who can now command success? The occupation, routine, and harmony of the family is broken up. Home, that one sacred, hallowed spot, the hope, the refuge of all, is invaded, profaned, laid waste, and the self-respect, the spirit, the manhood of the family trodden out, and its members made spiritless and reckless. The family is impoverished. The support of the state is the family, and it is of vital interest to the state that the family should be protected and home held sacred. The young, the weak-minded, the ignorant, the poor, should be protected, and they should not be tempted. "Lead us not into temptation," was the precept of the greatest of lawgivers. *The accused may be the sole support, the sole protection, of a family. To what may not affection induce the family to submit? The bare reflection that a son or daughter, brother or sister, may yet be tested, makes the blood curdle*—WE ARE LOOKING AT THE POSSIBILITIES, AND POSSIBILITIES AND OPPORTUNITIES MAKE

*it would cease to be prerogative any longer, and, therefore, Fuich lays it down as a maxim, that THE PREROGATIVE IS THAT LAW IN CASE OF THE KING WHICH IS LAW IN NO CASE OF THE SUBJECT."*

And again—

"It is necessary to distinguish the prince from his subjects, not only by the outward pomp and decorations of majesty, but also by ascribing to him certain qualities as inherent in his royal capacity, distinct from and superior to those of any other individual in the nation. For, though a philosophical mind will consider the royal person merely as one man appointed by mutual consent to preside over many others, and will pay him that reverence and duty which the principles of society demand, YET THE MASS OF MANKIND WILL BE APT TO GROW INSOLENT AND REFRACTORY IF TAUGHT TO CONSIDER THEIR PRINCE AS A MAN OF NO GREATER PERFECTION THAN THEMSELVES. THE LAW, THEREFORE, ASCRIBES TO THE KING IN HIS HIGH POLITICAL CHARACTER NOT ONLY LARGE POWERS AND EMOLUMENTS, WHICH FORM HIS PREROGATIVE AND REVENUE, BUT LIKEWISE CERTAIN ATTRIBUTES OF A GREAT AND TRANSCENDENT NATURE, BY WHICH THE PEOPLE ARE LED TO CONSIDER HIM IN THE LIGHT OF A SUPERIOR BEING, AND TO PAY HIM THAT AWFUL RESPECT WHICH MAY ENABLE HIM WITH GREATER EASE TO CARRY ON THE BUSINESS OF GOVERNMENT—this is what I understand by the royal dignity."

CRIMINALS—NO REASON, NO ARGUMENT CAN BE GIVEN IN FAVOR OF THE RETENTION OF THESE POWERS BY MAGISTRATES. *The people see that the power is the magistrate, and they undertake to protect themselves and redress their own wrongs,* HENCE THE MURDERS, OUTRAGES, ETC., THAT ARE OF DAILY OCCURRENCE. LET THE LAW BE SUPREME, AND THE PEOPLE WILL RESPECT AND OBEY THE LAW.

It is the interest of every member of the community that the views of this pamphlet should prevail, for to what end are their labors if, when they are removed, the dear ones for whom they have labored are to be at the discretion of magistrates having such powers? Let each one take the case home to himself and look at it with the eyes of a father, husband, brother or son.

The person and property of no one should be at the discretion of another. No one that ever lived is fit to possess such power. The possession of such power inevitably induces its abuse in a greater or less degree.

Kings, governors, judges, magistrates, all men, all politicians, all have appetites and passions to gratify for women, political influence, power, position. All have prejudices, weaknesses, vanities.

And again—

"The king is equally sovereign and independent as any emperor in his empire. *No suit or action can be brought against him, for no court can have jurisdiction over him; for jurisdiction implies superiority of power, &c.* The person of the king is sacred, even though the measures pursued by him be completely tyrannical and arbitrary. THE KING CAN DO NO WRONG, AND IN HIS POLITICAL CAPACITY HE IS ABSOLUTE PERFECTION."

And again—

"IN THE EXERCISE OF HIS PREROGATIVE, THE KING IS AND OUGHT TO BE ABSOLUTE—THAT IS, SO FAR THAT NO LEGAL AUTHORITY CAN DELAY OR RESIST HIM—he may reject what bills, &c., &c., *may pardon what offences he pleases.*"

And again under head of KING'S REVENUE.

"The profits arising from the king's ordinary courts of justice make a ninth branch of his revenue, and these consist NOT ONLY IN FINES IMPOSED ON OFFENDERS, FORFEITURES OF RECOGNIZANCES, AND AMERCEMENTS LEVIED ON DEFAULTERS, but also in certain fees due to the crown in a variety of legal matters."

Note 2. "These, in process of time, have been almost all granted out to private persons, or else appropriated to certain particular uses, so that though our law

History is a record of the prostitution of power by rulers, emperors, kings, queens, &c., to the gratification of individual appetites.

The law is, that a person committing a certain act, shall be confined in prison for a certain period. This is an arbitrary, and to a certain extent, a tyrannical act, and it can only be justified by its necessity for the public security, *and by its exact and even imposition on all*. To imprison one for one period and another for another, for the same crime; or to imprison a poor man and let a rich man escape imprisonment by paying a fine; to imprison the friendless one, and let the one having influence escape; is intolerable wrong and oppression, and is a despotie act, and is entirely at variance with the spirit of a Republican or Democratic government, the principle of which is the supremacy of the law *and the exact equality of all men in the eye of the law*. The reason of the law is the soul of the law. The reason of the government is the soul of the government, and must be final in deciding all questions under it.

This power of judges and governors to vary at will punishment for crime is to punish the convict not for the crime, but for being poor, uninfluential, or stupid. The writ of habeas corpus is to inquire as to wrongful detention, etc.; but a convict under sentence is excepted

proceedings are still loaded with their payment, very little of them is now returned into the king's exchequer."

"In democracies this point of pardon can never subsist, for there nothing higher is acknowledged than the magistrate who administers the law," &c.—BLACKSTONE.

MR. BLACKSTONE IS NOT CORRECT IN THIS, "that nothing higher is acknowledged than the magistrate," &c. THE LAW IS HIGHER: IT IS THE HIGHEST, THE SUPREME POWER, AND THE MAGISTRATE IS BUT THE PRONOUNCER OF THE LAW.

The national judges are no more than the mouth that pronounces the words of the law—mere passive beings, incapable of moderating either its force or its rigor.—MONTESQUIEU.

And again—

"In republics, the very nature of the constitution requires the judges to keep to the letter of the law."—MONTESQUIEU.

from its benefit. *Withdraw that exception.* If the convict is unjustly convicted and imprisoned, he is wrongfully detained, and he should have the benefit of the writ. Let the hearing, as in motions for new trials, be before the General Term; let the petition set forth the conviction and record, and the facts, newly discovered evidence, etc., on which the convict relies; in case of death or absence of witness on former trial, let the record supply the deficiency on any subsequent trial—the matter can easily be so guarded as to secure justice to the convict and the State.

Justice will thus be done, and the supremacy of the law maintained. I have submitted some suggestions as to amendments of the Constitution to carry out the ideas of this pamphlet. *If these amendments be made we will then for the first time have a Republican government, and personal liberty and personal security will be insured. There must be Republican government or despotism; there is no middle course; either the law must be supreme, or the ruler supreme; the one is a republic, the other a despotism.*

## ANTI-DESPOTISM.

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“Judgments ought to be fixed to such a degree as to be always conformable to the exact letter of the law—were they to be the private opinion of the judge, people would live in society without knowing exactly the obligations it lays them under.”—MONTESQUIEU.

*Note 3.* “The government in all its parts is the creature of the people, and every department of it is filled by their agents, duly chosen or appointed according to their will, and made responsible for mal-administration.”—KENT, Vol. —, p. 594.

It was also ordained that no person should suffer without EXPRESS LAW IN LIFE, LIMB OR PROPERTY.—*Id.*

In a despotic government the power is communicated entire to the person entrusted with it. The Vizier himself is the despotic prince, and each particular officer, is the Vizier.

IN A DESPOTIC GOVERNMENT, THE VIZIER IS ANSWERABLE WITH HIS HEAD FOR THE EXERCISE OF HIS POWER.—*Montesquieu.* HERE WE HAVE THE EXERCISE OF POWER WITH NO RESPONSIBILITY.

I state as a legal proposition that any one imprisoned under the 1st case instanced under a sentence for a longer period than seven years, or under the 2d for a longer period than ten years, or under the 3d, 4th or 5th cases instanced, is illegally imprisoned, for the reason that there is no express law to warrant such imprisonment.

I suggest the following amendments to the Constitution :

1st. Nomination and appointment of magistrates by Governor and Senate.

2d. Abolition of pardoning power.

3d. Abolition of fines.

4th. Extension of the writ of habeas corpus, as suggested.

5th. Immediate revision of the criminal code, so that there should be reasonable and not arbitrary enactments, and reasonable and not arbitrary division of crimes, and reasonable terms of imprisonment, and that the law should fix the term of imprisonment, and give no discretion to judges, nor allow suspension of judgment.

6th. An amendment that will give positive and definite expression to the law of the State on the subject of arrest, imprisonment and search.



## CONSIDERATIONS ON THE SELECTION OF THE JUDICIARY.

NOTE to pages 6 and 7 as below referred to.

NATURAL ability with years of application and experience can alone give a perfect knowledge of a profession or trade. To judge of the qualifications of one in a particular profession or trade requires a master in that line. The public interests are not to be experimented with. The lawyer to be appointed judge should not only possess ability, experience, and integrity, but he should be able to give the proper certificate of the possession of those qualities, i.e., acknowledged public reputation. The appointment should be with that power most likely to possess capability to select, and least likely to be influenced to an improper selection. The framers of our Government gave the appointment to the President and Senate, and in this State to the Governor and Senate, they being the officers highest in the State, and necessarily men of ability, education, reputation, and free from all petty influences. A judge appointed by the agreement of such men could hardly fail to be a good one, and we know that when judges were so appointed they honored the bench, and the personal rights of the people were protected.

*An elective judiciary means a judiciary SELECTED BY POLITICIANS, AND THE SELECTION IS THE POINT. Could the selection be proper, the election would be good. But the politicians provide, and the people must accept.* Reputable, capable, and therefore deserving professional, mechanical, or business men do not, as a rule, meddle in politics; they have a substance, a reality, an occupation. It is the adventurer, the man without the substance, the reality, the occupation, that is the politician, and to the politician politics is his substance, his reality, his occupation, and his stock in

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The matter on page 6 commencing with line 6, and on page 7, ending with line 7, is to be considered as parts hercof. The word Magistrate is used for police justice, judge of criminal court, and Governor.

trade is the votes, the influences he can control, and each is in the market to sell or trade as best he may. A motley collection—adventurers from all trades, dealers, venders, gamblers and pugilists, all hungry, and all engaged pell mell in the grand scramble for the spoils. To these men must the applicant for office address himself, and to succeed he must enlist these warriors in his service. *Is it reasonable to suppose that a man of the requisite qualifications as described will thus scramble for office? Would it not be a surrender of his manhood, his self-respect, his position, his grade? and a descent? Can inducements be offered commensurate with the sacrifice? Did he consent to descent, would he be acceptable? Would not the introduction of such a judge in the political ring be to its interests as was to the Trojans the introduction of the wooden horse—defeat? When politicians appoint judges, politicians will be judges.*

The statutes recognize two classes of offenders, those who commit crime against the individuals, i.e., thieves, robbers, etc., and those who commit crimes against the community, i.e., office holders: and to protect the people against these two classes, the natural enemies of the people, are laws made, and laws without judges are mere shapes of ink on paper. *To make politicians judges is to set the wolves to guard the sheep.* The man who would let this motley collection of incompetents (incompetent in any profession or trade) select his lawyer or doctor, his architect to plan, his builder to build his house, or would leave to their selection his stock of goods would be deemed a fit subject for the writ “*De lunatico inquirendo.*” *To lengthen the term of office, leaving the selection as at present, is to give us Jeffries, if he be in office, for thirteen years, in place of eight. All that we have that we most value, relatives, liberty, property, all we hold by the law, our families remain to us or are separated, our property is secured to us or taken from us, by the law. To leave to this heterogeneous body the selection of judges, shows either an entire want of the requisite appreciation, ability and in-*



TEGRITY TO DEAL WITH THE SUBJECT, OR AN AFFILIATION WITH THOSE AGAINST WHOM THE PEOPLE DEMAND PROTECTION. The conclusion is inevitable: there is no escape from it, and if the members of the Convention fail to perform so obvious a duty the pith and gist of their employment, on one or the other of the horns of this dilemma will such failure place them.



The officials have sought the offices they hold for profit, and they use all means to increase the profit. They are the power in the state, and hold in their hands the public property, revenues, etc., and make contracts in reference thereto. Their interest is radically antagonistic to the interest of the people, and their interest naturally prompts them to protect and cover one the other. The sole guardians of the interests of the people are the judges. The officials, for misconduct in office, corruption, bribery, extortion, misperformance or nonperformance, etc., are arraigned before and tried by the judges.

A judge is either independent or dependent; dependence is as destructive to the essential requisite of a judge as is to the supremacy of the law the existence of a royal prerogative, (pardon, for instance.) In a monarchy the monarch is the head, and the people have but one master. In a republic with dependent judges, the officials are the heads, and the people have as many masters as officials. The government that places judges in the power of officials is a sickening sham. The judges are by the very nature of our government the highest officers of state, and their dependence is an insult and degradation to the people. In every government the judges are appointed by the highest power in the state, and men of the highest standing for ability and integrity are selected, and they, next to the supreme ruler, are the highest officers of the state. In monarchies, the judiciary feel the power of the monarch; under the present constitution the judiciary feel the power of the politicians. In a republic the judiciary should feel the power of the law alone. The question of liberty or bondage (i. e., innocence or guilt) is of the most grave importance, and the magistrate who is to pass on it should at least be in all respects the equal of the civil judge.

*The present constitution, by making the judges dependent, did in fact grant to the politicians, by lease, as it were, the state, its people, revenues, etc., without consideration for rack rent for twenty years—Was ever estate more thoroughly gleaned by the middleman? WE HAVE NOW HAD TWENTY YEARS'*

EXPERIENCE OF SUSPENSION OF THE LAW, AND SUBSTITUTION THEREFOR OF THE WILL OF THE OFFICIALS, I. E., DESPOTISM—We have now reached the climax; the people are arrested, beaten, and imprisoned at will; *the fundamental principles of the government for the protection of the people have no force*; USAGE HAS ADDED A PRECEPT TO THE COMMON LAW THAT THE HELPLESSNESS OF YOUTH, AGE, LONELINESS, OR POVERTY WORKS FORFEITURE OF THE PERSONAL RIGHTS OF LIBERTY, SECURITY, AND PROPERTY. The officials paid to protect the people are the oppressors of the people, and the power of office is prostituted to the purposes of the officials; personal liberty and security are jests. In the police courts the people are not treated with attention or respect; they are used like cattle, and are browbeaten and abused; they are made the butts of official merriment; their wants and woes, wounds and wretchedness, probed to the quick. One of the staples of the daily papers is the holding up to public gaze these helpless unfortunates, with such comment as the ability of the writer can afford.

Crime in this city is a marketable commodity, and yields large profits to the dealers; as hunters use hounds and falcons to bring in game, so do the dealers use the thieves of different grades; and the possession of the game to the thief is as transient as to the hound or falcon. *Well housed, dressed, fed, crime is profitable, and is tolerated.*

The public moneys are at the discretion of the officials; they help themselves. Peculation and extortion rule undisputed; the taxes increase by millions, and as they increase, rents increase; each tenant, if he be a laborer of any description, lawyer, doctor, mechanic, etc., must demand increased wages; if he be store keeper, increased profit on his goods to meet the increased rent; and the action of each is felt by each and all in the increased cost of all the necessities of life. So the tenant pays the taxes directly in the rent, and the tenant and landlord pay the taxes in the increased cost of all the necessities of life. Owing to this increased cost of living the

body of the people are crowded into tenement houses, and are scantily clothed and fed; the poor are driven to attics and cellars, and helplessly starved. The public thoroughfares are seized and used as private property and the people crowded in cars like cattle in pens, and extortion practised on them in violation of the plain letter of the law. The people who by misfortune become inmates of the public charities are still the people. The public charities are paid for and supported by the people for the use of themselves, the people (i. e., the poor.) A father pays for and supports his house for his family; and the poor have the same rights in the charities that the family have in the house. As the father employs servants of different grades to supervise and attend to the family, the people employ servants (i. e., officials) to supervise and attend to the charities; and the poor, as matter of right and not of favor, are entitled to care, attention, and respect. The public charities are by these public servants worked for their profit and gratification. They feast on the choicest luxuries, and the poor, like the beggar at the rich man's gate, are thrown the crusts. The treatment the poor helpless infants receive, words fail to describe. We point to infanticide in India as an evidence of the barbarism of its inhabitants. Let us look at home at the treatment of helpless infants in the public charities, and the daily record of abortions in the papers. Abortion is a recognized, tolerated trade, and its professors offer their services to the public publicly in a half column of a daily paper.

The people called the Convention and incurred its expense that the oppressions which they suffered and which they clearly recognized and distinguished (some of which are above set forth,) might be abated; other oppressions, banks, canals, etc., did not so directly and distinctly touch their persons and pockets. They thoroughly understood and appreciated the evil of a dependent judiciary, and they traced to this evil their many oppressions. They thoroughly understood and appreciated the abuses of the pardoning power. The people are not slaves, boors or serfs; they are intelligent, educated and

cultivated, and perfectly capable to understand, appreciate and judge these two evils, their causes and effects. They observed since the establishment of the elective judiciary, the power of the officials steadily increasing, and the power of the judges as surely waning, until as at present, the officials are the master. The people have long since given judgment on these questions, and the wisdom, the judgment of a people should be respected in preference to the wisdom, the judgment of individuals or small bodies of individuals. In a republic the judgment of a people should be final. Is it reasonable to suppose that such a people will continue to suffer outrages to their persons in violation of the law of the land ; that they will continue to suffer privation that their earnings may be tossed by thousands by officials one to the other, and that officials may revel in luxury ? *The remedy and the only remedy is an independent judiciary.*

*The question is not only as to our personal rights for probably the balance of our lives, but the rights of our children.*

#### ANTI-DESPOTISM.

Time has not been allowed the writer for exact correct expression, nor for condensation or arrangement, nor for a full expression of this matter, and he asks that this be taken in consideration by the reader. It is the judgment of the writer that the vital interests of the people demand that the Constitution be amended as urged, and in default of action by others, to such effect he acts as he deems his duty to the helpless and to his family demand, and as in him lies, and if any part bear constructive reflections on either the members of the Convention or the judiciary, it is unintentional. The writer has simply endeavored to show that the evil is in the system and not in the men ; that the system does destroy, and will surely destroy the usefulness of any men as judges, and surely induce corruption in officials. He detects repetitious matter which might be omitted, and expressions which he would alter, but circumstances prevent.

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